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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.         | CONFIRMATION NO.       |
|---|-------------|----------------------|-----------------------------|------------------------|
| 10/606,687  | 06/26/2003  | Cristian Constantino | 7000-237A                   | 6283                   |
| 27820 7590 05/05/2010<br>WITHROW & TERRANOVA, P.L.L.C.<br>100 REGENCY FOREST DRIVE<br>SUITE 160<br>CARY, NC 27518 |             |                      | EXAMINER<br>NGUYEN, QUYNH H |                        |
|   |             |                      | ART UNIT<br>2614            | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>05/05/2010     | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/606,687

**Applicant(s)**

CONSTANTINOF, CRISTIAN

**Examiner**

QUYNH H. NGUYEN

**Art Unit**

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on appeal brief filed 3/5/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. In view of the Appeal Brief filed on 3/5/09, PROSECUTION IS HEREBY REOPENED. Non-Final office action set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 35 recites a tangible computer readable media. The broadest reasonable interpretation of the claims drawn to a computer readable medium typically covers forms of non-transitory tangible medium and transitory propagating signals per se in view of the ordinary and customary meaning of computer readable medium. See MPEP 2111.01. When the broadest reasonable interpretation of claims covers a signal per se, the claims are rejected under 35 U.S.C. 101 as covering non-statutory subject matter. Suggestion is to amend to narrow the claim to cover only statutory embodiments by adding the limitation "**non-transitory**" to the claims. For example, a non-transitory tangible computer readable storage medium.

***Claim Rejections - 35 USC § 103***

4. Claims 1-5, 7-8, 10-22, 24-25, and 27-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleischer, III et al. (US Patent 6,724,874) in view of Lindgren et al. (U.S. Patent 6,775,534).

As to claims 1, 18, and 35, Fleischer teaches the steps of:

receiving call setup requests from at least one originating device (col. 7, lines 14-19 - *a telephone call from originating device at calling station, allowing call setup*);

determining select call setup requests for the call setup request, the select call setup requests being received from authorized users to initiate a call for emergency services (col. 7, lines 19-29; col. 16, line 66 through col. 17, line 15 - *users with assigned privilege class is permitted to complete calls during emergency to ensure critical traffic can get through for emergency services*).

forwarding the select call setup requests toward at least one terminating device associated with the emergency services (col. 7, lines 25-29),

Fleischer does not explicitly teach one of the at least one originating or terminating devices resides on a packet network. However, Fleischer teaches the invention standard and protocols also for Internet and other packet switched network (col. 38, lines 59-65).

In the same field of endeavor, Lindgren teaches one of the at least one originating or terminating devices resides on a packet network (Fig. 1; col. 2, lines 10-23 and lines 42-43 and line 66 through col. 3, line 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made that it is well known in the art of telecommunications that a device resides in a circuit switched network or a packet switched network. The latter one is the preferred one in this instant application. Each network has its well known advantages.

As to claims 2 and 19, Fleischer teaches ones of the call requests that are not the select call requests are not forwarded toward the at least one terminating device (col. 7, lines 24-25; col. 17, lines 1-7).

As to claims 3-4 and 20-21, Lindgren teaches creating emergency information for each of the select call setup requests wherein the emergency information is provided in a emergency header field; and inserting the emergency information into the select call setup requests prior to forwarding the select call setup request (col. 3, lines 30-51).

As to claims 5 and 22, Lindgren teaches the attach request is transmitted as the mobile identity and there is Ciphering Key Sequence Number (col. 4, lines 29-32).

As to claims 7-8 and 24-25, Fleischer teaches sending requests toward terminating device when at least one terminating device and network elements are in an overload conditions (col. 17, lines 1-15).

As to claims 10 and 27, Fleischer teaches sending the select call setup requests to a proxy for the at least one terminating device (col. 7, lines 25-29; col. 17, lines 7-8).

As to claims 11 and 28, Fleischer teaches the call setup requests are received (col. 7, lines 14-19 - *a telephone call from originating device at calling station, allowing call setup*) and the select call setup requests are forwarded toward the at least one terminating device (col. 7, lines 25-29), Lindgren teaches the call setup requests are received over the packet network and at least one terminating device in the packet network (Fig. 1; lines 10-23 and lines 42-43 and line 66 through col. 3, line 1; col. 3, lines 6-41).

As to claims 12, 15, 29, and 32, Lindgren teaches the call setup requests are received over the packet /circuit switch network (Fig. 1; col. 2, line 41 through col. 4, line 4), and Fleischer teaches the select call setup request are forwarded toward the at least

one terminating device over the circuit switch (Figs. 1 and 4; col. 5, lines 31-45; col. 6, lines 17-20).

As to claims 13, 16, 30, and 33, Fleischer teaches the select call setup request are forwarded toward the at least one terminating device over the circuit switch (Figs. 1 and 4; col. 5, lines 31-45; col. 6, lines 17-20); Lindgren teaches the call setup requests are initial address messages (Figs. 1 and 4).

As to claims 14, 17, 31, and 34, Fleischer teaches the select call setup request are forwarded toward the at least one terminating device (Figs. 1 and 4; col. 5, lines 31-45; col. 6, lines 17-20); Lindgren teaches the call setup request are session initiation protocol INVITE messages (col. 3, lines 30-47).

5. Claims 6, 9, 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleischer and Lindgren in view of Kroll (US 6,370,234).

As to claims 6, 9, 23 and 26, Fleischer and Lindgren do not teach inserting the selected priority levels into corresponding ones of the select call setup requests.

Kroll teaches inserting the selected priority levels into corresponding ones of the select call setup requests (abstract; Fig. 2; col. 2, line 35 through col. 4, line 22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Kroll into the teachings of Fleischer and Lindgren for the purpose of sorting through emergency calls for priority calls, and eliminating the redundant calls so the operators will only deal with the real emergencies

and dispatching appropriate rescue personnel to that incident, as discussed by Kroll (col. 1, lines 8-25).

***Response to Arguments***

6. Applicant's arguments filed 3/5/09 have been fully considered but are moot in view of ground(s) of rejection.

Claims 1, 18, and 31 recite "...the select call setup requests being received from users who are authorized to initiate a call for emergency services". Applicant is required to clarify the above limitation. In case of an emergency, only authorized users can make an emergency call? If the authorized users are not available to, or do not, make the emergency call, would no one else be allowed to make that emergency call?

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to QUYNH H. NGUYEN whose telephone number is 571-272-7489. The examiner can normally be reached on Monday - Thursday from 6:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.



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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Quynh H Nguyen/  
Primary Examiner, Art Unit 2614

/Ahmad F Matar/  
Supervisory Patent Examiner, Art Unit 2614